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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,464	04/15/2004	Richard P. Helliwell	200304269-2	8184

7590

02/22/2006

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EXAMINER

ENG, DAVID Y

ART UNIT

PAPER NUMBER

2155

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/825,464	Applicant(s) HELLIWELL, RICHARD P.	
	Examiner DAVID Y. ENG	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/30/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Claims 1-15 have previously been cancelled. The active claims are 16-38 of which claims 16, 18, 20, 23, 26, 30, 32, 35 and 37 are independent claims.

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 20-25 and 30-34 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-14 of prior U.S. Patent No. 6,751,667. This is a double patenting rejection.

Details of the rejection have already been set forth in the last Office action. The details are incorporated herein by reference thereto.

In the communication filed on 11/30/2005, Applicants admit that some forms of volatile memory are faster than some forms of non-volatile memory, but contend that the reverse is also true. The Examiner relies on the former in his rejection.

In view of the Terminal Disclaimer filed on 11/30/2005, the obviousness-type double patenting rejection of claims 16-19, 26-29 and 35-38 is withdrawn.

In view of the amendment filed on 11/30/2005, the Section 112 rejection is withdrawn.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 16-19, 26-29 and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tedesco (UCP 6,421,651).

Details of the rejection have already been set forth in the last Office action. The details are incorporated herein by reference thereto.

Applicants are correct in that the Section 103 rejection over Tedesco does not include claims 33 and 34. The error is regretted.

In the communication, Applicants said that there is no showing in Tedesco to split portions of the identifier storage. It is noted that there is no splitting of anything recited in the claims. Rather, the claims recite to store an identifier in a volatile memory and a copy thereof in non-volatile memory. The properties of volatile and non-volatile memory and their application are well known in the art. See Davis (USP 4,959,774). It would have been obvious to a person of ordinary skill in the art to store a working copy of data in the processor RAM (volatile memory) and a copy in non-volatile memory to prevent lost of data in power interrupt.

As to the arguments based on the problem the instant invention is intended to solve, firstly, the intended use is not in the claims and secondly, the intended use is not patentable distinct over Tedesco. The Tedesco reference meets all claim limitations.

Applicant's arguments filed 11/30/2005 have been fully considered but they are not persuasive.

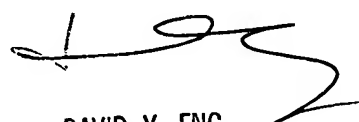
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID Y. ENG whose telephone number is 703-305-9691. The examiner can normally be reached on M-F from 7AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SALEH NAHHAR, can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVID Y. ENG
PRIMARY EXAMINER